

12/22/09 11:15 AM

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

RACHEL MAYHEW,

Civ. No. 07-6313-TC

Plaintiff,

ORDER

v.

T-MOBILE USA, INC.,

Defendant.

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Aiken, Chief Judge:

Magistrate Judge Coffin issued his Findings and Recommendation in the above-captioned action on September 14, 2009. Magistrate Judge Coffin recommends that plaintiff's motion for partial summary judgment be denied and that defendant's motion for summary judgment be granted in part and denied in part. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's

report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Plaintiff and defendant have filed timely objections to the Findings and Recommendation. Upon de novo review of Magistrate Coffin's Findings and Recommendation, I find no error. I agree that plaintiff cannot bring an ADA claim based on her son's disabilities, that genuine issues of fact exist as to whether plaintiff's use of protected leave and/or her disability were motivating or causal factors in her termination, and that questions of fact exist as to the accommodations sought by plaintiff and whether they were reasonable.

THEREFORE, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 72) filed September 14, 2009, is ADOPTED in its entirety. Defendant's Motion for Summary Judgment (doc. 28) is GRANTED with respect to plaintiff's ADA claim based on the failure to accommodate her son's disabilities and DENIED in all other respects. Plaintiff's Motion for Partial Summary Judgment (doc. 29) is DENIED.

IT IS SO ORDERED.

Dated this 22 day of December, 2009.



Ann Aiken  
Chief United States District Judge